

# Mandate to Discriminate

*Appointing the 2016-2022 UN  
Special Rapporteur on “Israel’s  
Violations of the Principles and  
Bases of International Law”*

Report by UN Watch  
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UN  Watch

## Executive Summary

The UN Human Rights Council (UNHRC) is soon to appoint a replacement for Makarim Wibisono, the former Indonesian diplomat who announced that he will step down prematurely, at the end of March 2016, after serving less than two years in his position as “Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.”

This report examines the controversial mandate, reviews the 10 applicants, and makes recommendations for relevant stakeholders.

### *Appointment Procedure*

Following interviews with five out of the ten applicants, the UNHRC’s Consultative Group (CG)—chaired by the representative of Egypt—on March 4<sup>th</sup> [recommended](#) two names: Penny Green of the UK, ranked first, and Michael Lynk of Canada, ranked second.

The next step is for the Council president, South Korean ambassador Choi Kyong-lim, to consult broadly with UN member states and to select one of the applicants for the Council’s approval.<sup>1</sup> While the custom is for the president to choose from among the names shortlisted by the CG, he has the authority to choose any of the ten applicants. This is indeed what took place in 2014 when the CG recommended human rights lawyer Christina Cerna for this position, yet the president and the

Council in the end chose to appoint Mr. Wibisono.

The decision by the plenary is scheduled to take place at the end of the current 31<sup>st</sup> session of the UNHRC, on Thursday, March 24, 2016.

### *Mandate Against Human Rights*

The selective, prejudicial and discriminatory nature of this mandate has been recognized by several of the mandate-holders themselves—including former Special Rapporteur Hannu Halinen—as it negates the very concept of universal human rights and the rule of law.

While the title of the mandate implies that the special rapporteur monitors “the situation of human rights in the Palestinian territories,” this is false. In fact, the text of the mandate, unchanged since 1993, makes clear that the rapporteur is charged with investigating only “Israel’s violations.”

Palestinian, Israeli or other victims of human rights violations committed in the territories by the Palestinian Authority, Hamas or Islamic Jihad are ignored. No other UN mandate on the human rights situation of a specific country discriminates in this fashion; no other presumes the existence of violations and prejudices guilt in advance; and no other mandate lasts forever without any review and need for renewal. The mandate, therefore, is inherently discriminatory, and must be changed.

<sup>1</sup> For the appointment procedure, see Human Rights Council resolution 5/1, decision 6/102 and resolution 16/21.

*UNHRC Rules of Impartiality & 2014 CG Criteria Disqualify Partisan Applicants*

Under the rules of the Council, as defined in resolution 5/1 and 16/21, the criteria of “impartiality” and “objectivity” are to be of “paramount importance” when selecting and appointing mandate-holders.

Accordingly, when the CG in 2014 selected applicants for this same position, no doubt mindful of the frequent embarrassments caused by outgoing rapporteur and overt Hamas supporter Richard Falk, the group said that its operating criteria would be to recommend a candidate who was “the most likely to be able to objectively engage the key interested parties,” and not those who, by contrast, had “previously taken public positions on issues relevant to the mandate.”

Proceeding on that basis, the CG chose human rights lawyer Christina Cerna, and rejected biased candidates such as William Schabas and Christine Chinkin. It is deeply regrettable that this year’s CG breached its obligations and failed to follow its predecessor in upholding even the most minimal impartiality criteria required by the relevant UNHRC resolutions.

*Nominees Penny Green and Michael Lynk Are Disqualified by Partisan Advocacy*

Penny Green, whom the UNHRC’s vetting committee deemed impartial and objective as a potential investigator of Israel’s violations, accuses Israel of “criminal state practices,” “ethnic cleansing,” and “apartheid.” She laments that the US and UK haven’t yet started “bombing Israel for its massacres.”

Green, who was ranked first by the UNHRC’s vetting committee, also advocates the total boycott of Israel, posting statements on Twitter such as: “Support BDS against Israel—best way to resist this criminal government”; “Academics should now systematically refuse any invitations to visit Israeli universities or attend conferences there”; “the West must impose sanctions against, boycott and divest from Israel.”

Green also promotes the work of extreme anti-Western ideologues like Noam Chomsky and Grietje Baars, and heads an institute that opposes Western counter-terrorism and anti-extremism efforts as manifestations of Islamophobia.

Michael Lynk, also deemed impartial and objective by the UNHRC’s vetting committee, plays a leadership role in numerous Arab lobby groups, including CEPAL, which promotes “Annual Israeli Apartheid Week” events; signs anti-Israel petitions; calls to prosecute Israel for alleged war crimes; addresses “One State” conferences that seek to eliminate Israel; and argues that “the solution” to “the problem” must go back to Israel’s very creation in 1948, which he calls “the start of ethnic cleansing.”

On his campus, Lynk tried to stop the president of Western University from accepting an award from the Jewish National Fund, which advances reforestation and water treatment in Israel, and he regularly organizes anti-Israel events and speakers. Lynk’s stated goal is to “isolate Israel.”

Like Penny Green, Lynk also promotes an extreme anti-Western political agenda. Three days after the 9/11 terrorists

attacks, Lynk instinctively blamed the West, pointing the finger at “global inequalities” and “disregard by Western nations for the international rule of law.”

### **Recommendations**

#### **❖ Recommendation to EU and USA:**

Take action to finally eliminate the human rights protection gap, prejudice, and discriminatory nature of the mandate, as recognized by numerous democracies, Amnesty International, and even by several of the mandate-holders themselves.

#### **❖ Recommendation to UN Human Rights Council President Choi Kyong-lim:**

Reject the grossly partisan applicants recommended by the Consultative Group, on the grounds that they fail to meet the minimal criteria of impartiality and objectivity as required by Human Rights Council resolution 5/1 and resolution 16/21. The president should instead follow the precedent and criteria set by the previous Consultative Group for this mandate by selecting applicants without biased records. This year’s pool of applicants include human rights lawyers who have not gone on record about the conflict. As in 2014, the appointment process can be extended as necessary beyond the current March session.

#### **❖ Recommendation to Palestinian Authority, Arab League, and Organization of Islamic Cooperation:**

Recognize that, as McGill international law professor Frédéric Mégret has [noted](#) regarding similar appointments in the past, surely if the Arab and Islamic states believe that Israel is committing gross and

systematic violations of human rights, then they must believe that the facts will speak for themselves, and that designating those who have a long record of making previous statements—knowing full well that their records will be discredited by legal scholars and human rights activists—does not serve their cause. Two recent cases are illustrative. Though the Palestinian Authority and the Arab and Islamic states ensured Richard Falk’s appointment as Special Rapporteur in 2008, less than two years later the Palestinian delegation found themselves [freezing](#) Falk’s reports—for his support of their rival Hamas—and [pleading](#) with him to resign, and for the U.S. to help remove him. Similarly, the Palestinians and their supporters successfully lobbied for William Schabas to head the UNHRC’s 2014 Gaza inquiry, yet his prior statements and actions were found to be so egregious that his appointment was [condemned](#) by leading international law scholars, and Schabas was forced to resign in disgrace only six months later—after it was also revealed that he had done paid legal work for the PLO—making him the first UN inquiry chair forced to quit over an actual conflict of interest.

## Mandate's Deceptive Title

The UN gives the Human Rights Council's lead investigator on Israel the title of "Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967." The position was held from 2008 to 2014 by [Richard Falk](#), and then by Makarim Wibisono, who announced he would step down at the end of March 2016.

The title is deliberately misleading, designed to mask the discriminatory and prejudicial nature of the UNHRC's permanent investigative mandate on Israel. The title is a key part of the UN's larger, routine misrepresentation of this mandate. In April 2010, for example, the UN's Office of the High Commissioner for Human Rights (OHCHR) sent out a press release stating that Mr. Falk was "mandated by the UN Human Rights Council to monitor the situation of human rights and international humanitarian law on Palestinian territories occupied since 1967."

This statement, like the rapporteur's title, is false and misleading because the actual, unchanged mandate since 1993, as spelled out in Article 4 of Commission on Human Rights resolution 1993/2, is as follows:

To investigate *Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967.*

The mandate as the UN describes it would be of universal application to all actors, be

they Israeli or Palestinian. The mandate as it actually is, however, applies only to *Israeli* actions—and with its violations prejudged and presumed in advance. There is a substantial difference between the two.

## Mandate Against Human Rights

Indeed it may be said that the mandate negates the very idea of universal human rights and the rule of law. Victims of human rights violations cannot be ignored or addressed by the United Nations depending on the identity of the alleged perpetrator.

### *Protection Gap*

The result is a protection gap that must be remedied. The EU should lead an effort in the Council to change the mandate to improve protection for victims of violations of human rights and humanitarian law and accountability for all perpetrators, in accordance with international human rights and humanitarian law. The EU should take action in the 31<sup>st</sup> session to provide the new Special Rapporteur with a clear mandate, as Amnesty International has said, "to investigate and report on violations of international human rights and humanitarian law committed by all parties—Israeli and Palestinian, state agents and non-state actors." Ensuring the comprehensiveness of the Special Rapporteur's mandate is necessary to protect and promote the rights of all persons.

*Mandate Obsolete*

It is important to note the current mandate is effectively obsolete as it was created in February 1993, prior to the dramatic changes on the ground effected by the Oslo Accords in 1993 and the arrival of Yasser Arafat and the PLO to the West Bank and Gaza, with the establishment of the Palestinian Authority and subsequently the take-over of Gaza by Hamas.

*Special Rapporteurs Dugard and Falk Recognized Bias of Mandate*

As former rapporteur John Dugard noted in his August 2005 report, the mandate “does not extend to human rights violations committed by the Palestinian Authority.”<sup>2</sup> Human rights abuses by Hamas, Islamic Jihad, and the Palestinian Authority enjoy impunity.

On 16 June 2008, Mr. Falk himself acknowledged the one-sided nature of the mandate, saying it was open to challenge regarding “bias and one-sidedness.” He added: “With all due respect, I believe that such complaints have considerable

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<sup>2</sup> In his August 2005 report, Dugard for the first time broke the mandate’s instructions, explaining that he felt compelled to address Palestinian violations as well. Not those against Israel, however, but rather in regard to the Palestinian use of the death penalty against their own. It would be “irresponsible for a human rights special rapporteur to allow the execution of Palestinian prisoners to go unnoticed... The Special Rapporteur expresses the hope that these executions were aberrations and that the Palestinian Authority will in future refrain from this form of punishment.” See [report of 18 August 2005](#), at Section VIII.

merit.”<sup>3</sup> However, the Council refused to eliminate the discrimination.

*Special Rapporteur Giacomelli Recognized “Severe Limitations” of Mandate*

On March 15, 2000, then Special Rapporteur Giorgio Giacomelli emphasized in his [report](#) to the Commission on Human Rights (predecessor to the Human Rights Council) that “since the establishment of this mandate [in 1993], a new situation has come into being in the mandated area”—meaning the establishment of the Palestinian Authority— noting “that new players have appeared on the same ground.” These factors “have created a new, more complex situation” which requires “attention and action.”

The fact that the Special Rapporteur had access only to one concerned party “severely limits the possibility of drawing a complete picture of the situation,” threatening to relegate the mandate “to a routine and limited role.”

He asked the Commission to consider if the mandate as it stands “still fully serves the purpose for which it was originally conceived” and “whether it reflects a complete picture of the human rights situation in the occupied territories.”

*Special Rapporteur Halinen: Mandate is “So Distant From Reality,” Must be Changed*

Hannu Halinen of Finland, who served as Special Rapporteur from 1995 to 1999, recognized the acute discrimination and

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<sup>3</sup> See UN summary at <https://unispal.un.org/DPA/DPR/unispal.nsf/0/5CD67160D974181E8525746A004D3A4C>.

prejudice in the mandate, and on numerous occasions called for changes.

On March 15, 1996, the Special Rapporteur [urged](#) the Commission on Human Rights to amend the mandate, emphasizing “human rights violations perpetrated in areas under the control of the Palestinian Authority.” He wrote that the protection and promotion of human rights is a “general responsibility” and it is essential that the Special Rapporteur be able to study and report about the situation of human rights in a “comprehensive” manner. The “situation on the ground... has to be reflected appropriately in the mandate of the Special Rapporteur.” The Palestinian Authority had “promised him full cooperation in reviewing the mandate accordingly.” The responsibility of improving the human rights situation in the West Bank and Gaza Strip, said the rapporteur, lies also with the Palestinian Authority.

On March 19, 1998, according to a [UN press release](#), Special Rapporteur Halinen, noted that he was unable to visit Palestinian prisons “as these were not under his mandate.” He again called for the mandate to be changed. Mr. Halinen said he was asking for “equal treatment” with other Special Rapporteurs. It was up to Commission members to act and start discussions on this matter. The Special Rapporteur explained “the mandate was prejudging the outcome of the findings”; that “it was taken for granted that there were violations” and “that they were committed by Israel.”

“To move ahead and create trust, it was necessary to regard the question in its entirety and look at how to help prevent violations,” he added. He wished to have

a mandate “to investigate in the whole area.”

On March 31, 1999, according to a [UN press release](#), Special Rapporteur Halinen said “he had not been happy with his mandate from the very beginning.” He had been “constantly asking for an amendment of the mandate,” which was “so distant from reality” that “it must be reviewed if one wanted to improve the human rights situation.” He was only able to report on human rights violations by Israel. Yet he wanted “to be able to report on the situation of human rights as did other Special Rapporteurs,” and “not be told beforehand what the violations were and by whom they were committed.”

*Special Rapporteur Felber Resigned, Called for Eliminating the Mandate*

After presenting his second report to the Commission, Mr. Felber resigned as Special Rapporteur on February 9, 1995, and called for the mandate to be eliminated altogether. The Special Rapporteur, reported AP, said that “promoting the peace process, not condemning Israel, was the best way to ensure Palestinian rights.”<sup>4</sup>

His comments unleashed a wave of criticism from member states of the commission, particularly Muslim countries.<sup>5</sup> “Maybe I said out loud what other people merely think,” Felber, a former Swiss foreign minister, told a news conference. “I don't regret it.”

<sup>4</sup> “Special Investigator Defends Controversial Decision to Quit,” *Associated Press*, February 3, 1995; and “U.N. Rights Prober: Focus On Israel Should End,” *Associated Press*, February 1, 1995.

<sup>5</sup> “U.N.'s Mideast rights monitor resigns,” *United Press International*, February 3, 1995.

“Instead of condemning Israel, Felber said it was better to support the peace process because it will promote respect for basic freedoms.”<sup>6</sup>

“Is it better to condemn or is it better to support a peace process which leads to a concrete solution?” he said. “For me, I support the concrete solution.”<sup>7</sup>

“It is in this spirit that we submit this report,” he wrote in his [final submission](#) to the UNHRC, “which naturally concludes with a proposal to do away with our services, and even to do away with appointing a Special Rapporteur in the occupied territories altogether.”

*Amnesty International: Bias Undercuts Mandate’s Credibility and Effectiveness*

Human rights groups have likewise criticized the one-sided nature of the mandate. On 11 July 2008, Amnesty International said that the mandate’s “limitation to Israeli violations... undercuts both the effectiveness and the credibility of the mandate.”<sup>8</sup>

Amnesty noted that the mandate “fails to take account of the human rights of victims of violations of international human rights and humanitarian law committed by parties other than the State of Israel.”<sup>9</sup>

*Only Mandate Never to Undergo UNHRC Review, Rationalization and Improvement*

<sup>6</sup> *Associated Press*, February 3, 1995.

<sup>7</sup> *Id.*

<sup>8</sup> See

<https://www.amnesty.org/en/documents/MDE15/028/2008/en/>.

<sup>9</sup> *Ibid.*

Amnesty also called for the mandate to be subjected to the review, rationalization and improvement process that was applied to all other mandates in the transition from the commission to the council.<sup>10</sup>

During this period, the outgoing president of the council, Ambassador Doru Costea of Romania, had also called for the mandate to be subject to the RRI process.<sup>11</sup>

Nevertheless, the RRI never took place, and the mandate on Israel was the only UN human rights council mandate not to be reviewed, rationalized or improved.

<sup>10</sup> *Ibid.*

<sup>11</sup> See Daniel Kuhn, “Outgoing HRC head: Review Palestinian mandate,” *Jerusalem Post*, June 7, 2008, at

<http://www.jpost.com/International/Outgoing-HRC-head-Review-Palestinian-mandate>.



## Candidates Picked By Egyptian-Led UNHRC Vetting Committee

*First-Ranked Candidate:*

**PENELOPE (“PENNY”) GREEN**



### [Application and Bio](#)

If, as the UNHRC Consulting Group holds, Penelope Green is an impartial and objective candidate to investigate Israel—after she has gone on record to [accuse](#) Israel of “waging a war against the people of Palestine for more than 60 years” (i.e., since its creation in 1948), and after she declared that “Israel must lose”—then the very concepts of impartiality and objectivity at the United Nations have lost all meaning.

Ms. Green is a UK criminologist who heads a radical, London-based organization, the “State Crime Initiative,” which recently published a report advocating to [delist Hamas](#) as a terrorist group—after the UN documented its targeting of civilians with rockets, and despite Hamas terrorist attacks such as the 2014 murder of three Israeli teenagers. The report speaks repeatedly of undefined “Zionists” whom it portrays as complicating the ability of “peace-builders” to interact with Hamas figures. Green served as adviser on the report.

In addition, Green’s organization counts some of the world’s most extreme anti-Western ideologues as its associates, including Noam Chomsky, Richard Falk, and [Grietje Baars](#), the Marxist law professor who served as European spokeswoman for IHH’s 2010 Gaza flotilla, and who quietly [co-authored](#) key chapters of the UNHRC’s Goldstone Report.

If Green is appointed as the UN’s permanent investigator on Israel for the next six years, this will empower her center along with some of the Western world’s most dangerous apologists for radical Islamist terrorism. A recurring theme of her center’s work is [delegitimizing](#) counter-terrorism and anti-extremism efforts by Western governments as a form of Islamophobia.

In her articles, Green [accuses](#) Israel of “criminal state practices” which amount to “ethnic cleansing” and “apartheid.” She also accuses Israel’s military of [targeting civilians](#).

Green has signed numerous anti-Israeli petitions: in 2014, for example, she accused Israel of [murdering families](#).

On social media, Penny Green uses incendiary language, comparing Israel to the ISIS, and appearing to wish that Western countries would bomb Israel:

*“Compare US and UK govt responses to the IS in Iraq with Israel in Gaza. No question of bombing Israel for its massacres,” she lamented on [August 13, 2014](#).*

Green accuses Israel of being a brutal baby-killer and of ethnic cleansing:

*“A rare insight by channel 4 into Israel's brutal killing of children in Gaza,”* she tweeted on [July 18, 2014](#).

On May 27, 2014, Green [tweeted](#) about *“Ethnic cleansing of Palestinians in apartheid Israel.”*

When in 2015 the creator of Harry Potter called for cultural bridges with Israel instead of boycotts, Green [tweeted](#): *“Co-existence with apartheid? J.K. Rowling owes Palestinians an apology, not an explanation,”* enclosing an article with that title.

Green has called for boycotts against Israel, which—in her supposedly impartial eyes—is a “criminal government”:

- *“Support BDS against Israel — best way to resist this criminal government,”* tweeted Green on [October 23, 2015](#).
- *“Academics should now systematically refuse any invitations to visit Israeli universities or attend conferences there,”* tweeted Green on [August 3, 2014](#).
- *“War on Gaza: the west must impose sanctions against, boycott and divest from Israel. Protests around the world against Israel's crimes,”* tweeted Green on [July 20, 2014](#).

Green's repeated boycott calls are significant. If appointed, she would be the first UN rapporteur who would refuse invitations to speak at Israeli universities, many of which include outspoken pro-Palestinian academics. Even William

Schabas, who had to resign from the UN's 2014 Gaza inquiry over his failure to disclose paid legal work for the PLO, never advocated boycotting Israeli universities.

Moreover, if Green is appointed, and Israel declines to cooperate with her mandate on the grounds that it is inherently racist in its exclusive focus on alleged human rights violations that can be blamed on Israelis, and prejudicial in presuming violations in advance, for the first time neither the UN nor European officials could complain to Israel. For if the Rapporteur herself calls for boycotting Israel's “criminal government,” how could Jerusalem be asked to send her invitations?



Richard Falk, the former UN rapporteur on Palestine who was condemned by Secretary-General Ban Ki-moon and the UK government for his promotion of 9/11 conspiracy theories and anti-Semitism, hosted by Penny Green.

*Second-Ranked Candidate:*

**MICHAEL LYNK**



### Application and Bio

Mr. Lynk equally fails the impartiality requirements set forth in Human Rights Council resolution 5/1 and resolution 16/21. He has been an ardent anti-Israeli activist for at least three decades, plays a leadership role in groups that advocate against Israel, and participates in political campaigns that use demonizing language against Israelis.

**Cites Nazis to Indict Israelis:** Speaking in 2005 at the annual gathering of anti-Israel campaigners organized by the UN's Division for Palestinian Rights, Lynk cited Nazi war crimes in his call for "legal strategies" to prosecute Israelis. Lynk proposed a strategy to target Israelis in the domestic courts of Australia, Canada, Germany, the Netherlands, New Zealand, South Africa, and the United Kingdom. His paper only addressed alleged violations by Israel, while turning a blind eye to war crimes committed by Palestinian, Hezbollah, and Iranian state and non-state actors. "Legal strategies," said Lynk, "can often form an important part of a broader political and social campaign."

**Blames 9/11 on the West:** Only three days after the September 11, 2001 terrorist attacks that destroyed the World Trade Center in New York, Lynk pointed the finger not at radical Islamist terrorism, but at Western countries. Although 3,000 innocent victims were killed by Al Qaeda terrorists, Lynk chose to blame "global inequalities" and "disregard by Western nations for the international rule of law." Lynk attributed blame to Western democracies yet notably omitted direct causes such as the 15 Saudi hijackers, the funding of terrorism by members of the Saudi regime, or the sustained Saudi export of extreme Wahhabist ideology worldwide. While Lynk's September 14, 2001 statement included a pro forma condemnation of the attacks, he immediately diluted this by an amorphous reference to terrorism "everywhere." Worse, Lynk qualified his condemnation with a "yet" where he proceeded to blame the West. The 9/11 conspiracy website "911 Blogger" has hosted Lynk statements.

**Leadership of Arab & Palestinian Lobby Groups:** Lynk is a member of the board of directors of the National Council on Canada-Arab Relations; a member of the advisory board of the "Canadian-Palestinian Education Exchange" (CEPAL), which promotes events like the "4th Annual Israeli Apartheid Week"<sup>12</sup>; and, together with former Arab League representative Clovis Maksoud, Lynk is on the advisory board of Friends of Sabeel North America.

**Keynote on Palestinian "Resistance":** Lynk gave the keynote speech at

<sup>12</sup> See [http://www.ngo-monitor.org/reports/canadian\\_palestinian\\_educational\\_exchange\\_cepala\\_anti\\_israel\\_campaigns\\_cloved\\_in\\_human\\_rights/](http://www.ngo-monitor.org/reports/canadian_palestinian_educational_exchange_cepala_anti_israel_campaigns_cloved_in_human_rights/).

CEPAL’s “[International Day of Solidarity with Palestinians](#),” on November 29, 2001, where he spoke of “popular resistance.”

**Signatory to Anti-Israel Petitions:** Lynk signed a [2009 statement](#) condemning Israel for alleged “war crimes” in Gaza together with Christine Chinkin, co-author of the Goldstone Report—an act which Judge Goldstone deemed grounds for her disqualification from the UNHRC commission of inquiry on Gaza. The statement made only a passing reference to Hamas crimes. Lynk also signed the one-sided statement by Richard Falk, entitled “[Joint Declaration by International Law Experts on Israel’s Gaza Offensive](#).”

**Prosecuting Israel is “The Principal Issue”:** Lynk said that “the principal issue is to persuade countries, like Canada, France, Australia, England, and other countries that accepted the Rome Statute, to try Israel,” in an [interview](#) with *IslamOnline.net*, where he failed to call for prosecuting any Palestinian leaders for war crimes such as targeting civilians.

**Addressed “One State Solution” Conference Aimed at Dissolving Israel:** In March 2009, Lynk participated at a “One State Solution” conference co-sponsored by the “Trans Arab Research Institute.”<sup>13</sup> Six months after Palestinian Authority President Mahmoud Abbas rejected the peace offer from Israeli Prime Minister Ehud Olmert that would have created an independent Palestinian

state containing all of the Gaza Strip, much of the West Bank plus land swaps, and a tunnel connecting the two areas, Lynk’s “One State” conference issued a statement claiming that “the Israelis continue to extend the two-state solution discourse primarily to pursue sustained confiscation of Palestinian land.”<sup>14</sup> The conference’s stated goal was “an exploration of the one state solution”—thinly veiled language for the elimination of the Jewish state—“as an emergent and increasingly important option for all.”<sup>15</sup>

**Lynk’s “Solution” is Undoing Israel’s Creation in 1948:** Speaking at a [radical conference](#) whose keynote speaker was Hamas supporter Richard Falk, Lynk said, according to a summary, that he “used to think the critical date in the Palestinian-Israeli conflict was 1967, the start of the occupation. Now he thinks the solution to the problem must go back to 1948, the date of partition and the start of ethnic cleansing.”

**Tried to Block Jewish National Fund Award for University President:** In 2008 Lynk tried yet failed to [stop](#) the president of his university, Paul Davenport, from accepting an award from the Jewish National Fund, which advances reforestation and water treatment in Israel, claiming that it “practices institutionalized discrimination.” President Davenport met with Lynk, and [rejected](#) his campaign.

**Supports “Israel Apartheid Week”:** At Western University, Lynk has hosted anti-

<sup>13</sup> See [http://www.492cafe.org/audio/events/2009\\_03\\_25\\_26-tari-1state/](http://www.492cafe.org/audio/events/2009_03_25_26-tari-1state/) and <http://www.arabichour.org/One-state-Conference.htm>.

<sup>14</sup> See <http://cafe.comebackalive.com/viewtopic.php?f=1&t=42987> and <http://forum.politics.be/archive/index.php?t-117874.html>.

<sup>15</sup> *Id.*

Israel events and speakers.<sup>16</sup> He has [promoted](#) “Israel Apartheid Week.”

**Seeks “Victory” at ICC to “Isolate Israel”:** Lynk has called for “a victory at the International Criminal Court” that would “isolate Israel.” In his view, this would in itself “reestablish the importance of universal values.”<sup>17</sup>

**Application Replete With Errors:** The application of Michael Lynk, a law professor at Western University in Canada, is sloppy and replete with errors, indicating a lack of professionalism as well as a lack of respect for the Council.<sup>18</sup>

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<sup>16</sup> See “Davis speaks about human rights” at <http://www.usc.uwo.ca/gazette/generate.asp?day=21&month=9&year=2004>.

<sup>17</sup> See <http://mondoweiss.net/2013/02/settlement-palestinian-international/#sthash.8Og1RG6g.dpuf>.

<sup>18</sup> See, e.g., Lynk’s answers to questions 3 and 4 in Part II, and his letter in Part III, concluded in mid-sentence.

## Other Candidates

The council president typically chooses among the candidates shortlisted by the Consultative Group, which in this case are Penny Green and Michael Lynk, both described above. However, the president also has the authority to choose from any of the eight other applicants. Indeed, the last time this position was filled, in 2014, the president chose one of the applicants who was not shortlisted. Hence we list below the other applicants as well.

### Phyllis Bennis



Phyllis Bennis has closely collaborated with Richard Falk.

#### [Application and Bio](#)

Phyllis Bennis is the only applicant to have been publicly endorsed by a former holder of the position, Richard Falk, someone with whom Bennis has collaborated closely, and who was condemned by Ban Ki-moon for his promotion of 9/11 conspiracy theories. Falk recently wrote that the UN's rejection of her candidacy in 2014 was a

“mistake” which should now be “redeemed” by the Council, [adding](#) that Bennis possessed “the credentials, motivation and strength of character to become an effective Special Rapporteur.”

Bennis in turn looks out for Falk. When UN Watch got Falk [expelled](#) from his position at Human Rights Watch, [Bennis defended him](#) as “scrupulously fair.” She pointed the finger at UN Watch for “undermining and delegitimizing Richard Falk,” saying it was “pretty rare for Special Rapporteurs to face condemnation, insult, and attack from high-ranking UN officials, including the Secretary-General, or powerful diplomatic actors from their home country—such as US representative to the UN, Ambassador Susan Rice.”

Although candidates rarely if ever mention their religion in their application, Bennis notably refers to “my Jewish upbringing”—for obvious reasons. Her mentor Falk was chosen for the same position in 2008 not only because he was zealously anti-Israel, but also because he was—in the [words](#) of the Palestinian representative—a “Jewish professor.” When Falk accused Israel of planning a [“Palestinian Holocaust”](#) he made sure to invoke his authority “as an American Jew.” Although Bennis is not one of the names recommended this year by the Consultative Group, she is still eligible to be considered for the post, just as Wibisono was in 2014.

## Hussein Ali Kalout

### [Application and Bio](#)



Hussein Ali Kalout’s application appears to be invalid on its face because candidates are required to be independent of government influence, whereas he wrote, rather oddly, that his application was an actual decision of the Brazilian government:

My candidacy for this position is not an exploratory application, but rather a decision taken by the Brazilian government based on the strong conviction to actively keep on contributing to [...] international humanitarian law in the Occupied Palestinian Territories of 1967, according to Brazil’s foreign policy traditions.

Interestingly, while Brazil’s representative is one the five members of the Consultative Group, their March 4<sup>th</sup> [report](#) indicates that she declined, without giving reasons, to participate in the interview and final shortlisting process. Presumably this was done to avoid a conflict of interest concerning the Brazilian applicant, however it seems that the Brazilian ambassador did participate in the initial selection process of picking which applicants would be interviewed.

When it comes to the Arab-Israel conflict, Mr. Kalout does not appear to be impartial. One of his articles on the subject [describes](#) Israel’s efforts to stop the wave of terrorist bombings against its city buses and cafés, through creation of a security barrier, as a “policy of humiliation” against Palestinians. Defending the right to life of Israelis was rendered by Kalout as “a policy to isolate the Palestinians in prisons.”

## Christina Cerna



### [Application and Bio](#)

Georgetown University law professor Christina Cerna was among the five applicants chosen to be interviewed this year. She has no apparent record of making statements on the conflict—and for that reason she was both initially recommended by the CG in 2014 to be the rapporteur, and ultimately rejected by the Arab states.

Cerna served as Chair of the International Human Rights Law Committee of the International Law Association; and for many years served at the Organization of American States, including as a Principal Human Rights Specialist at its Inter-American Commission on Human Rights.

She served as a Fulbright Fellow conducting research at the European Court of Human Rights, and has published extensively on international human rights law issues.

In 2014, Cerna was recommended by the CG to be the Special Rapporteur. The members determined that “of the candidates interviewed, Ms. Cerna demonstrated not only an understanding of the various human rights issues at play and a realistic appreciation for the challenges that a mandate holder may face, but was also the most likely to be able to objectively engage the key interested parties having not previously taken public positions on issues relevant to the mandate.”

However, the influential Arab and Islamic blocs summarily rejected the CG’s selection of Cerna.

According to Cerna, the UNHRC “killed” her candidacy as its expert on Palestine on account of her not being “partial.”

Extraordinary for its candor, Cerna’s comment [published](#) in November 2014 on the blog of the *European Journal of International Law* is worth quoting at length. “In my view,” wrote Cerna, “Israel has a unique status in the UN Human Rights Council. Impartiality is not a requirement sought by the Council for the appointment of experts when it comes to Israel.”

“I was selected as the consensus candidate of the Consultative Committee for the post of UN Special Rapporteur on the Occupied Palestinian Territories earlier this year, but the Organization of Islamic Cooperation and the League of Arab

States both officially opposed me, which killed my candidacy.”

“They opposed me for ‘lack of expertise,’ although my entire professional life has been involved with human rights, but because I had never said anything pro-Palestinian and consequently was not known to be ‘partial’ enough to win their support. The candidate that they officially supported was considered to be partial in their favor.”

“No other special procedures mandate is similarly biased. At the end of the day, neither I nor the OIC candidate was appointed, but the Indonesian diplomat, Makarim Wibisono, who was appointed, was considered sufficiently ‘pro-Palestinian’ to be acceptable to the OIC,” Cerna concluded.

## Magali Lafourcade



### [Application and Bio](#)

Dr. Lafourcade highlighted in her application that “my essential impartiality will be reinforced by the fact that I have never taken a political stand in the Israeli-Palestinian conflict.” The public record seems to mostly confirm that. She did,



however, retweet the post below falsely implying that a comparison of casualty counts in the Hamas-Israel war of 2014 was an indicator of compliance with the laws of war.



She holds a PhD in comparative law and human rights, worked 10 years as a judge, served as a lecturer at Sciences Po, and is currently the Deputy Secretary General of France’s national human rights institution.

## Saer Ammar

### [Application and Bio](#)

Syrian lawyer Saer Ammar’s application has little chance of success. While his PhD thesis, [published](#) on Amazon, is a criticism of Israeli policy entitled “The Legal Status of the Israeli Barrier in the Occupied Palestinian Territories”, his motivation letter says that he seeks the position of Special Rapporteur on Palestine because he wants to “contribute to the rule of law and human rights *in Cambodia*.” It seems Mr. Ammar merely copied and pasted his application from the [previous year](#) to be the UNHRC monitor on Cambodia.

## Michael Mansfield



### [Application and Bio](#)

British lawyer Michael Mansfield’s claim to fame is having served on the [jury](#) of the “Russell Tribunal on Palestine,” which, according to a [New York Times op-ed](#) by Judge Richard Goldstone, was a kind of Stalinesque show trial with one-sided evidence, composed of jury members “whose harsh views of Israel are well known.”

As an attorney, Mansfield defended the [Palestinian bombers](#) convicted for attacking Israel’s London embassy in 1994.

In frequent publications for the Guardian, he [lobbied](#) for the activists of the 2010 Turkish-led flotilla days before they deliberately provoked a violent clash with Israel, and [condemned](#) the U.S. for its apparent “extra-judicial killing” of Bin Laden.”

## Vinodh Jaichand



*William Schabas, forced to quit the UN Gaza inquiry for his PLO ties, had [recruited](#) Vinodh Jaichand (right) to be his Deputy-Director at the Irish Centre for Human Rights*

### [Application and Bio](#)

Mr. Jaichand is not impartial. In 2005, he gave a speech [declaring](#) Israel to be an “apartheid state.” He examined ways the “State of Israel is likely to be prosecuted for the crime against humanity of apartheid.”

Jaichand has signed various [petitions](#) singling out Israeli companies for boycott, but has never done the same for Palestinian entities documented to be complicit with human rights abuses

## Anohar John

### [Application and Bio](#)

Anohar John’s application is written in poor English, appears often incoherent, and barely makes a serious case for his candidacy. It is unlikely to be considered.